

1 SENATE BILL 580

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO ENERGY EFFICIENCY; AMENDING THE NAME OF THE PUBLIC
12 FACILITIES ENERGY AND WATER CONSERVATION ACT; PROVIDING FOR THE
13 LEASE PURCHASE OF ALTERNATIVE FUEL OPTION VEHICLES IN THE
14 GOVERNMENTAL ENERGY EFFICIENCY AND WATER CONSERVATION ACT;
15 MAKING A DISTRIBUTION FROM THE EXTRACTION TAXES SUSPENSE FUND
16 TO THE PUBLIC SCHOOL UTILITY CONSERVATION FUND; MAKING AN
17 APPROPRIATION.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 Section 1. Section 6-23-1 NMSA 1978 (being Laws 1993,
21 Chapter 231, Section 1, as amended) is amended to read:

22 "6-23-1. SHORT TITLE.--Chapter 6, Article 23 NMSA 1978
23 may be cited as the "~~[Public Facility]~~ Governmental Energy
24 Efficiency and Water Conservation Act"."

25 Section 2. Section 6-23-2 NMSA 1978 (being Laws 1993,

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1 Chapter 231, Section 2, as amended) is amended to read:

2 "6-23-2. DEFINITIONS.--As used in the [~~Public Facility~~]
3 Governmental Energy Efficiency and Water Conservation Act:

4 A. "conservation-related cost savings" means cost
5 savings, other than utility cost savings, in the operating
6 budget of a governmental unit that are a direct result of
7 energy or water conservation measures implemented pursuant to a
8 guaranteed utility savings contract or measures that are
9 designed to reduce the adverse effect of the carbon footprint
10 of buildings, equipment or vehicles on the environment. For
11 the purposes of this subsection, "carbon footprint" means a
12 measure of the amount of carbon dioxide produced by a building,
13 a piece of equipment or a vehicle at a given time;

14 B. "energy conservation measure" means a training
15 program or [~~a~~] the construction, purchase or modification [~~to~~]
16 of a facility, including buildings, systems or vehicles that
17 is designed to reduce energy consumption or conservation-
18 related operating costs and may include:

19 (1) insulation of the building structure or
20 systems within the building;

21 (2) storm windows or doors, caulking or
22 weatherstripping, multiglazed windows or doors, heat absorbing
23 or heat reflective glazed and coated window or door systems,
24 additional glazing, reductions in glass area or other window
25 and door system modifications that reduce energy consumption;

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1 (3) automated or computerized energy control
2 systems;

3 (4) heating, ventilating or air conditioning
4 system modifications or replacements;

5 (5) replacement or modification of lighting
6 fixtures to increase the energy efficiency of the lighting
7 system without increasing the overall illumination of a
8 facility, unless an increase in illumination is necessary to
9 conform to the applicable state or local building code or
10 nationally accepted standards for the lighting system after the
11 proposed modifications are made;

12 (6) energy recovery systems;

13 (7) solar heating and cooling systems or other
14 renewable energy systems;

15 (8) cogeneration or combined heat and power
16 systems that produce steam, chilled water or forms of energy
17 such as heat, as well as electricity, for use primarily within
18 a building or complex of buildings;

19 (9) energy conservation measures that provide
20 long-term operating cost reductions;

21 (10) maintenance and operation management
22 systems that provide long-term operating cost reductions;

23 (11) traffic control systems; ~~[or]~~

24 (12) alternative fuel options or accessories
25 for vehicles; or

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1 (13) purchase or lease purchase of alternative
2 fuel option fleet service vehicles, including school buses;

3 C. "governmental unit" means an agency, political
4 subdivision, institution or instrumentality of the state,
5 including two- and four-year institutions of higher education,
6 a municipality, a county or a school district;

7 D. "guaranteed utility savings contract" means a
8 contract for the evaluation and recommendation of energy or
9 water conservation measures and for the implementation of one
10 or more of those measures, and which contract provides that all
11 payments, except obligations on termination of the contract
12 before its expiration, are to be made over time and the savings
13 are guaranteed to the extent necessary to make the payments for
14 the conservation measures;

15 E. "qualified provider" means a person experienced
16 in the design, implementation and installation or in the
17 provision of energy or water conservation measures and who
18 meets the experience qualifications developed by the energy,
19 minerals and natural resources department for energy
20 conservation measures or the office of the state engineer for
21 water conservation measures;

22 F. "utility cost savings" means the amounts saved
23 by a governmental unit in the purchase of energy or water that
24 are a direct result of energy or water conservation measures
25 implemented pursuant to a guaranteed utility savings contract;

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1 [and]

2 G. "vehicle lease purchase energy conservation
3 contract" means an agreement for the financing or leasing of
4 alternative fuel option fleet service vehicles, including
5 school buses, with an option to purchase for a price that is
6 reduced according to the payments made, which periodic lease
7 payments composed of principal and interest components are to
8 be paid to the holder of the agreement and pursuant to which
9 the owner of the vehicles may retain title to or a security
10 interest in the vehicles and may agree to release the security
11 interest or transfer title to the vehicles to the governmental
12 unit for nominal consideration after payment of the balance of
13 the principal and accrued interest; and

14 [~~G.~~] H. "water conservation measures" means a
15 training program, change in maintenance practices or facility
16 or landscape alteration designed to reduce water consumption or
17 conservation-related operating costs."

18 Section 3. A new section of the Governmental Energy
19 Efficiency and Water Conservation Act is enacted to read:

20 "[NEW MATERIAL] VEHICLE LEASE PURCHASE ENERGY CONSERVATION
21 CONTRACT.--A governmental unit may enter into a vehicle lease
22 purchase energy conservation contract with a person for the
23 purchase or lease purchase of alternative fuel option
24 vehicles."

25 Section 4. Section 6-23-5 NMSA 1978 (being Laws 1993,
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1 Chapter 231, Section 5, as amended) is amended to read:

2 "6-23-5. CONTRACT APPROVAL REQUIRED.--

3 A. A governmental unit shall not enter into a
4 guaranteed utility savings contract with a qualified provider
5 or any installment payment contract or lease-purchase agreement
6 pursuant to that contract or a vehicle lease purchase energy
7 conservation contract unless the contracts and agreements are
8 reviewed and approved as follows:

9 (1) for school districts, by the
10 [~~superintendent of public instruction~~] secretary of public
11 education;

12 (2) for state agencies:

13 (a) if the facilities, systems or
14 vehicles are or are to be owned, leased or otherwise controlled
15 by the general services department, by the secretary of general
16 services; and

17 (b) if the facilities, systems or
18 vehicles are not or are not to be owned, leased or otherwise
19 controlled by the general services department, by the executive
20 head of the state agency;

21 (3) for municipalities and counties, by the
22 governing body of the municipality or county; and

23 (4) for all post-secondary educational
24 institutions and the state educational institutions confirmed
25 in Article 12, Section 11 of the constitution of New Mexico, by

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1 the ~~[commission on]~~ higher education department.

2 B. The approval required under this section shall
3 be given upon:

4 (1) a determination that the contracts and
5 agreements comply with the provisions of the ~~[Public Facility]~~
6 Governmental Energy Efficiency and Water Conservation Act and
7 other applicable law;

8 (2) certification by the energy, minerals and
9 natural resources department that the qualified provider of
10 energy conservation measures meets the experience requirements
11 set by the department and the guaranteed energy savings from
12 the energy conservation measures proposed appear to be
13 accurately estimated and reasonable; ~~[and]~~

14 (3) certification by the office of the state
15 engineer that the qualified provider of water conservation
16 measures meets the experience requirements set by that office
17 and the guaranteed water savings from the water conservation
18 measures proposed appear to be accurately estimated and
19 reasonable; and

20 (4) for school district vehicle lease purchase
21 energy conservation contracts, a determination by the public
22 education department that the contracts provide that:

23 (a) there is no legal obligation for the
24 school district to continue the lease purchase arrangement from
25 year to year or to purchase the vehicles; and

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1 beneficiary equal to that amount shall be transferred from the
2 common school current fund to the public school utility
3 conservation fund.

4 C. Money in the public school utility conservation
5 fund is appropriated to the [~~state department of~~] public
6 education department solely for the purpose of disbursing money
7 to school districts to make payments pursuant to any guaranteed
8 utility savings contract between the school district and a
9 qualified provider or any installment contract or lease-
10 purchase agreement for the purchase and installation of energy
11 or water conservation measures pursuant to that guaranteed
12 utility savings contract or any vehicle lease purchase energy
13 conservation contract.

14 D. Disbursements from the public school utility
15 conservation fund shall be made only to school districts and
16 only upon certification by the [~~superintendent of public~~
17 ~~instruction~~] secretary of public education that the
18 disbursement is for a payment authorized by the [~~Public~~
19 ~~Facility~~] Governmental Energy Efficiency and Water Conservation
20 Act.

21 E. The [~~superintendent of public instruction~~]
22 secretary of public education shall submit to the legislative
23 finance committee prior to each regular legislative session a
24 list of school districts proposing to enter into approved
25 guaranteed utility savings contracts in the succeeding fiscal

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1 year. The list shall include information on the amount of the
2 school district's proposed annual payments and specific amounts
3 that utility and operational budget items are guaranteed to be
4 reduced to achieve the savings to make the payments.

5 F. The secretary of public education shall submit
6 to the legislative finance committee prior to each regular
7 legislative session a list of school districts proposing to
8 enter into approved vehicle lease purchase energy conservation
9 contracts in the succeeding fiscal year. The list shall
10 include information on the conservation-related cost savings
11 associated with the contracts.

12 [~~F-~~] G. Any unexpended or unencumbered balance
13 remaining in the public school utility conservation fund at the
14 end of any fiscal year shall be transferred to the public
15 school fund."

16 Section 6. Section 7-1-6.22 NMSA 1978 (being Laws 1985,
17 Chapter 65, Section 8, as amended) is amended to read:

18 "7-1-6.22. DISTRIBUTIONS TO OIL AND GAS PRODUCTION TAX
19 FUND, OIL AND GAS EQUIPMENT TAX FUND AND COPPER PRODUCTION TAX
20 FUND AND PUBLIC SCHOOL UTILITY CONSERVATION FUND--CREATION OF
21 FUNDS.--

22 A. A distribution pursuant to Section 7-1-6.20 NMSA
23 1978 shall be made to the "oil and gas production tax fund",
24 hereby created in the state treasury, of the net receipts
25 including advance payments, attributable to the Oil and Gas Ad
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1 Valorem Production Tax Act.

2 B. A distribution pursuant to Section 7-1-6.20 NMSA
3 1978 shall be made to the "oil and gas equipment tax fund",
4 hereby created in the state treasury, of the net receipts
5 attributable to the Oil and Gas Production Equipment Ad Valorem
6 Tax Act.

7 C. A distribution pursuant to Section 7-1-6.20 NMSA
8 1978 shall be made to the "copper production tax fund", hereby
9 created in the state treasury, of the net receipts attributable
10 to the Copper Production Ad Valorem Tax Act.

11 D. A distribution pursuant to Section 7-1-6.20 NMSA
12 1978 shall be made to the public school utility conservation
13 fund of one-fourth of one percent of the net receipts
14 attributable to the Oil and Gas Emergency School Tax Act."